

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

ANANDA CAMARGO CHAVEZ,
Plaintiff,

v.

REBUILT BROKERAGE LLC d/b/a
REBUILT REALTY AND REBUILT
OFFERS LLC
Defendants.

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Case No. 1:24-cv-504-RP

**PROPOSED ORDER
IMPOSING SPOILIATION SANCTIONS ON DEFENDANTS
PURSUANT TO RULE 37(e)(1)**

AND NOW, this _____ day of _____, 202____, upon consideration of the Plaintiff's Motion to Impose Spoliation Sanctions on Defendants Pursuant to Rule 37(e)(1), any responses and replies thereto, and being duly advised of its premises, the Court does hereby ORDER, DECREE, and ADJUDGE:

- Plaintiff has demonstrated that sanctions under Rule 37(e)(1) are warranted, owing to the Defendants' failure to take reasonable steps to preserve relevant ESI in the form of classwide calling records.
- The Plaintiff has been prejudiced by the loss of such information, including through the ability to ascertain and prove up requirements for class certification under Rule 23.
- Such spoliated ESI may be recovered from MessageMedia, the Defendants' telephone provider, and Defendants' payment of the costs of said production, plus attorneys' fees and costs in bringing the instant motion, are sufficient to cure the prejudice.

NOW, THEREFORE, it is ordered that:

- Defendants shall bear the costs of MessageMedia's production of available classwide calling records, which is estimated to cost \$1,600.
- Counsel for Plaintiff shall file a bill of costs outlining the final cost of MessageMedia's production as well as attorneys' fees and costs incurred in bringing the motion within fourteen days of such production.
- After notice and an opportunity to be heard on such fees pursuant to Local Rule CV-54, Defendant is ordered to pay the sanctions as outlined in Plaintiff's subsequent bill of costs directly to counsel for Plaintiff within 30 days.

Hon. Robert L. Pitman, J.